FILED
NOV 7
JAMES R. BROWNING, Clerk

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1958

No. 333

JAMES S. O'ROURKE, JR. and
JOAN O'ROURKE,
Petitioners and Appellees below,

vs.

HENRY W. SILL and
BERNICE E. SILL,
Respondents and Appellants below.

PETITION FOR RE-HEARING

PHILLIP C. KELLY,
Attorney for Defendants.
Business Address:
301-304 Reynolds Building,
Jackson, Michigan.

AMERICAN BRIEF AND RECORD COMPANY, FIFTY MARKET AVENUE, N.W.,
GRAND RAPIDS 2, MICHIGAN — PHONE GL 8-5226

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Appellants below.

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TO: The Honorable Chief Justice and the Justices of the Supreme Court of the United States:

This is the case in which judgment was entered against defendants without allowing them to be heard.

If you will examine only pages 14, 15, 46, 47, 48, 49, 50 and 51 of the Appendix, it will be seen that defendants denied owing plaintiffs and that the evidence offered by plaintiffs showed that liability of defendants and the amount of such liability, if any, were facts in dispute. A jury had been demanded and was hearing the case. The question of liability and its amount, if any, was for the jury, even without any evidence being presented by defendants, but furthermore, defendants had a right to present their evidence.

The direction of this judgment by the Court was in flagrant violation of the rights of defendants under the 7th and 14th Amendments to the United States Constitution. The protection of these constitutional rights demand that defendants, who were not heard at the Court below, be heard in this Court.

Respectfully submitted,

PHILLIP C. KELLY,
Attorney for Defendants.
Business Address:
301-304 Reynolds Building,
Jackson, Michigan.

CERTIFICATE OF COUNSEL

I, PHILLIP C. KELLY, Attorney for defendants, hereby certify that this Petition is presented in good faith and not for delay, and is restricted to grounds specified in Rule 58.

Phillip C. Kelly